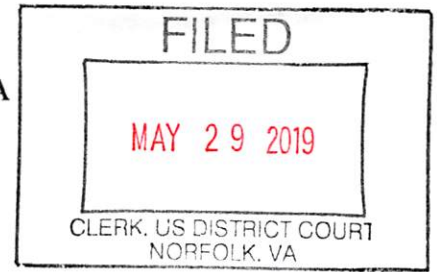


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



MARIUS H. STAFFORD, #1046424,

Petitioner,

v.

ACTION NO. 2:18cv348

HAROLD W. CLARKE,
Director of the Virginia Department of Corrections,

Respondent.

FINAL ORDER

Petitioner Marius H. Stafford ("Stafford"), a Virginia inmate, submitted a *pro se* petition, pursuant to 28 U.S.C. § 2254. ECF No. 1. Stafford alleges violations of federal rights pertaining to his conviction for felony habitual offender driving in the Circuit Court for the City of Chesapeake, for which he was sentenced to serve one year in prison, followed by two years of post-release supervision. *Id.* at 1; ECF No. 15 at 6.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The report and recommendation, filed April 3, 2019, recommends that respondent's motion to dismiss, ECF No. 9, be granted, and the petition for a writ of habeas corpus, ECF No. 1, be denied and dismissed with prejudice. ECF No. 15. Each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. On April 24, 2019, the Court received petitioner's objections to the report and recommendation. ECF No. 16.

The Court, having reviewed the record and examined the objections filed by petitioner to

the report and recommendation, and having made *de novo* findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the report and recommendation. The Court, therefore, **ORDERS** that respondent's motion to dismiss, ECF No. 9, is **GRANTED**, and the petition for a writ of habeas corpus, ECF No. 1, is **DENIED** and **DISMISSED WITH PREJUDICE**.

Finding that the basis for dismissal of Stafford's Section 2254 petition is not debatable, and alternatively finding that Stafford has not made a "substantial showing of the denial of a constitutional right," a certificate of appealability is **DENIED**. 28 U.S.C. § 2253(c); *see* Rule 11(a) of the Rules Gov. § 2254 Cases in U.S. Dist. Cts.; *Miller-El v. Cockrell*, 537 U.S. 322, 335–38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 483–85 (2000).

Stafford is **ADVISED** that because a certificate of appealability is denied by this Court, he may seek a certificate from the United States Court of Appeals for the Fourth Circuit. Fed. Rule App. Proc. 22(b); Rule 11(a) of the Rules Gov. § 2254 Cases in U.S. Dist. Cts. If Stafford intends to seek a certificate of appealability from the Fourth Circuit, he must do so **within thirty days** from the date of this Order. Stafford may seek such a certificate by filing a written notice of appeal with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.

The Clerk shall mail a copy of this Final Order to Stafford and counsel of record for respondent.



Raymond A. Jackson
United States District Judge

Raymond A. Jackson
United States District Judge

Norfolk, Virginia
May 29, 2019